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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,243	04/04/2005	Shuhei Kurata	P1293US	2656

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274 MADISON AVENUE  
NEW YORK, NY 10016

EXAMINER

CRAIG, PAULA L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/530,243	Applicant(s) KURATA ET AL.	
	Examiner Paula L. Craig	Art Unit 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,8 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. The objections to the drawings and the specification are withdrawn. The rejection of Claim 1 under 35 U.S.C. 112 is withdrawn. Applicant's arguments with respect to Claims 1 and 8 in the response filed June 15, 2006 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Objections***

2. Claims 14 and 17 are objected to because of the following informalities: In Claims 14 and 17, line 1 of each claim, "clam" should be "claim". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 8 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 8, lines 1-3, the absorbent body, which was present in the version of Claim 8 previously presented, but has not been indicated as having been deleted from the claim, has been omitted. In Claim 8, line 3, the meaning of the phrase "the ends attached on a skin-side surface of said cover

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sheet" is also unclear. A wording of "a cover sheet and an absorbent body, each of the cover sheet and the absorbent body having opposite front and rear ends and opposite first and second sides extending between the ends, the absorbent body being attached on a skin-side surface of the cover sheet" is suggested by the Examiner. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 8, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,455,303 to Wilson.

8. For Claim 1, Wilson teaches a disposable wearing article (pad 10 and supporting strips 9, Figs. 1-6, col. 1, lines 18-20 and col. 2, lines 1-14). The article has an

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absorbent body having opposite front and rear ends and opposite first and second sides extending between the ends (pad 10, Figs. 1, 3, and 4). A pair of right and left primary elastic members is attached to a back portion of the absorbent body (elastic supporting strips 9, Figs. 1-6 and col. 2, lines 7-10, and Claim 1). Each of the primary elastic members has an approximately linear portion in an approximately laterally central zone of the back portion inwardly of the opposite first and second sides, keeping such a constant distance from the other primary elastic member as to allow a central zone of the skin-side surface of the absorbent body between the right and left primary elastic members to be formed as a raised portion by an action of a contractile force in the approximately linear portion (linear portion is the portion of the elastic strips between the slits and passing through the pad 10; Figs. 1-6; note the raised portion between the strips shown in Fig. 2). Each of the primary elastic members has a divergent portion extending from the approximately linear portion towards at least one of the front and rear ends of the absorbent body and outwardly to define at least one divergent pattern (the portions of the elastic strips 9 passing around the legs of the user, Figs. 1 and 2). Wilson does not expressly teach attaching the primary elastic members in their stretched state. However, it would be difficult, if not impossible, either to assemble and attach the strips to the pad or to use the pad as indicated in Wilson, without stretching the strips to at least some extent. The claim does not indicate any particular structural limitation which would be produced by attaching the elastic members in a stretched state. In addition, attaching elastic members in a stretched state to an absorbent body

is well known in the art. It would have been obvious to one of ordinary skill in the art to attach the elastic members to the absorbent body in a stretched state.

9. For Claim 8, Wilson teaches a disposable wearing article including a cover sheet and an absorbent body having opposite front and rear ends and opposite first and second sides extending between the ends, with the absorbent body attached on a skin-side surface of the cover sheet (cover sheet is thin plastic material 3, absorbent body is pad 10, Figs. 1-6 and col. 2, lines 1-6). A pair of right and left primary elastic members is attached to the cover sheet (elastic supporting strips 9, Figs. 1-6 and col. 2, lines 7-10, and Claim 1). Each of the primary elastic members has an approximately linear portion in an approximately laterally central zone of the cover sheet inwardly of the opposite first and second sides, keeping such a constant distance from the other primary elastic member as to allow a central zone of the skin-side surface of the cover sheet between the right and left primary elastic members to be formed as a raised portion by an action of a contractile force in the approximately linear portion (linear portion is the portion of the elastic strips between the slits and passing through the pad 10; Figs. 1-6; note the raised portion between the strips shown in Fig. 2). Each of the primary elastic members has a divergent portion extending from the approximately linear portion towards at least one of the front and rear ends of the cover sheet and outwardly to define at least one divergent pattern (the portions of the elastic strips 9 passing around the legs of the user, Figs. 1 and 2). Wilson does not expressly teach attaching the primary elastic members in their stretched state. It would have been

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obvious to one of ordinary skill in the art to attach the elastic members in a stretched state, for the same reasons as described above for Claim 1 in paragraph 8.

10. For Claims 12 and 15, Wilson teaches the divergent portion including a front divergent portion extending from a front end of the linear portion substantially to the front end of the absorbent body or the cover sheet (Figs. 1 and 2).

11. For Claims 13 and 16, Wilson teaches the divergent portion including a rear divergent portion extending from a rear end of the linear portion substantially to the rear end of the absorbent body or the cover sheet (Figs. 1 and 2).

12. For Claims 14 and 17, Wilson teaches the divergent portion including front and rear divergent portions extending from opposite front and rear ends of the linear portion towards the respective front and rear ends of the absorbent body or the cover sheet (Figs. 1 and 2).

### ***Conclusion***

13. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571 )272-5964. The examiner can normally be reached on 6:30AM-3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig  
Examiner  
Art Unit 3761

PLC

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

